

NOTICES

ENVIRONMENTAL PROTECTION AGENCY

[AH-FRL-2057-4]

Fuels; Blends of Ethanol in Unleaded Gasoline

Monday, April 5, 1982

***14596 AGENCY:** Environmental Protection Agency (EPA).

ACTION: Interpretation.

SUMMARY: This notice announces EPA's interpretation that the "Gasohol" waiver, 44 FR 20777 (April 6, 1979), allows blends containing up to 10 percent anhydrous ethanol in unleaded gasoline.

DATES: This interpretation is effective May 5, 1982. However, revisions will be considered based on comments received on or before 60 days from the date of publication of this notice in the Federal Register.

ADDRESS: Send comments to Public Docket EN-82-01, Central Docket Section (A-130), Environmental Protection Agency, Gallery 1--West Tower, 401 M Street, S.W., Washington, D.C. 20460, with a copy forwarded to Richard G. Kozlowski, Director, Field Operations and Support Division (EN-397), U.S. Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Alan P. Loeb, Attorney-Advisor, Field Operations and Support Division (EN-397), U.S. Environmental Protection Agency, at (202) 382-2668.

SUPPLEMENTARY INFORMATION: Under section 211(f) of the Clean Air Act (Act), 42 U.S.C. 7545(f), as amended, no fuel or fuel additive may be introduced into commerce for general use in light-duty vehicles manufactured after model year 1974 which is not "substantially similar" to any fuel or fuel additive utilized in the certification of any 1975 or later model year vehicle. Section 211(f)(4) allows the Administrator to waive that prohibition on certain conditions, and provides that any application for a waiver on which the Administrator fails to act within 180 days is deemed granted. Under this provision, a waiver was granted by operation of the Act on December 16, 1978 to allow introduction into commerce of a fuel consisting of 90 percent unleaded gasoline and 10 percent anhydrous ethyl alcohol (ethanol), known as Gasohol.

EPA has received a request for clarification of the Gasohol waiver from Ashland Oil, Inc. and the Ohio Farm Bureau Federation, Inc. The definition of "Substantially similar" announced at 46 FR 38582 (July 28, 1981) allows up to two percent oxygen by weight for certain additives, including ethanol, and therefore unleaded gasoline containing up to 5.5 percent ethanol by volume could be legally introduced into commerce. Out of concern that the Gasohol waiver may be interpreted as only allowing the introduction into commerce of unleaded gasoline containing 10 percent ethanol, no more and no less, Ashland Oil, Inc. and the Ohio Farm Bureau Federation, Inc. have requested that EPA publish an interpretative rule clarifying that the blending of ethanol in amounts less than 10 percent falls within the scope of the waiver.

The data presented to EPA for evaluation of the Gasohol waiver request and engineering judgment demonstrate that the emissions effect of blends containing up to 10 percent anhydrous ethanol in unleaded gasoline would be the same or less than that for the full 10 percent ethanol blend. This is based on the conclusions that the effect on tailpipe emissions is generally due to a change in air-fuel ratio and the effect on evaporative emissions is generally due to a change in fuel volatility characteristics. Both of these changes are generally proportional to the alcohol content in gasoline.

As noted, the Gasohol waiver was granted by operation of law. The lack of a concurrent decision document meant that there was no explanation of the precise scope of the waiver. Although there is no technical reason why that waiver should not have extended to blends containing less than 10 percent anhydrous ethanol, there was a potential for confusion over whether the waiver had this effect, necessitating this clarification.

Therefore, introduction into commerce of blends of less than 10 percent ethanol in unleaded gasoline was waived by the Gasohol waiver, as of December 16, 1978. Notice of this fact is hereby formally given.

This action is not a "rule" as defined in the Regulatory Flexibility Act, 5 U.S.C. 601(2), because EPA is not required to undergo "notice and comment" under the provisions of 5 U.S.C. 553(b), or other law. Therefore, EPA has not prepared a supporting regulatory flexibility analysis addressing the impact of this action on smaller business entities.

Under Executive Order 12291, all applicable regulations must be reviewed by the Office of Management and Budget before publication, and for major rules an agency must prepare a Regulatory Impact Analysis. Because this interpretative rule is not a major rule as that term is defined in the Executive Order, no Regulatory Impact Analysis has been made. This action is not major because it is not likely to result in:

- (1) An annual adverse effect on the economy of \$100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Office of Management and Budget (OMB) has reviewed this rule, and any comments received from OMB are located in Public Docket EN-82-01.

*14597 Dated: March 30, 1982.

Anne M. Gorsuch,

Administrator.

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